THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13676 OF 2006

06.07.2006

Between:

M.Pedda Reddanna

… Petitioner

AND

The District Collector, Kadapa District
And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13676 OF 2006

ORDER:

The petitioner seeks a writ of Prohibition injuncting the second respondent herein from proceeding with appeal No.978/2005 on the ground that the second respondent has no jurisdiction under A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) to entertain the appeal under Section 5(5) of the Act.

The petitioner and his brother claim that they have inherited the property comprised in survey Nos.73 and 74 admeasuring Acs.3.25 from their grand father. They also allegedly obtained pattadar passbooks. The fourth respondent herein filed appeal before the second respondent questioning the entries made in the record of rights and pattadar passbook under Section 5(5) of the Act. The petitioner contends that pattadar passbook issued in favour of the father and brothers of the petitioner cannot be tested in an appeal straightaway unless a factual enquiry is conducted by the original authority, namely, the Mandal Revenue Officer. Hence the appeal is without jurisdiction.

A perusal of the appeal filed by the fourth respondent before the second respondent would show that he is aggrieved by the entries made in the record of rights in respect of the land in survey Nos.179, 207/B, 73, 74, 466/2, 464, 465 etc., situated at Cherlopalli, Pepasahebpet and Chinthakomma Dinne Village and Mandal. Therefore, appeal under Section 5(5) of the Act cannot be said to be barred merely on the ground that the entries were in the name of the father of the petitioner. Secondly, after receiving the notice issued by the second respondent, the petitioner had appeared before the second respondent and filed counter affidavit opposing the appeal. It is now well settled that unless it is shown that a statutory body suffers from inherent lack of jurisdiction, merely on apprehension that there might be errors in exercise of such jurisdiction, a writ of Prohibition cannot be issued. Therefore, this Court holds that under Section 5(5) of the Act, the Revenue Divisional Officer is the appellant authority and it is open to the petitioner to raise all the grounds, if not already raised. The second respondent is also directed to dispose of the appeal within a

period of six weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

July 06, 2006
YS